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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MONICA CONTRERAS,

Plaintiff,

v.

RONALD D. FOX; JAMES KENYON;
PATRICIA DONINGER; CLARK COUNTY,
NEVADA; STATE OF NEVADA, ex rel. THE
EIGHTH JUDICIAL DISTRICT COURT,
DOES 1-10; and ROE ENTITIES 11-20,
inclusive,

Defendants.

Case No.: 2:13-cv-00591-APG-PAL

PLAINTIFF'S MOTION FOR LEAVE TO
FILE SURREPLY TO DEFENDANT
CLARK COUNTY'S MOTION TO
DISMISS (#19)

Plaintiff MONICA CONTRERAS moves this Honorable Court for an Order granting leave to file the attached proposed Surreply to Defendant CLARK COUNTY'S Motion to Dismiss (#19), to address a separation of powers argument raised for the first time in the COUNTY'S Reply (# 41). Bearing on both that new argument and other issues relevant to the County's motion, leave is also sought to submit an additional exhibit, attached to the requested Surreply, containing documents which were not disclosed or available to Plaintiff until after the filing of her Opposition (#33) to the COUNTY'S Motion.

Not raised in the COUNTY'S original Motion, its Reply is devoted to erroneously arguing that dismissal is warranted by the separation of powers provision in Nevada

1 Constitution, Art. 3. Leave to submit a surreply is warranted when a moving party raises a
2 new argument for the first time in its reply brief. *Zabelny v. CashCall, Inc.*, 2013 U.S. Dist.
3 LEXIS 97576 (D. Nev. July 11, 2013). Cf. *Small v. Univ. Med. Ctr. of S. Nev.*, 2012 U.S.
4 Dist. LEXIS 162664, 1-2 (D. Nev. Nov. 14, 2012).

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6 In addition, a surreply may properly be used to address newly discovered evidence. *In*
7 *re Jolly Roger Cruises & Tours v. Jolly Roger Cruises & Tours*, 2011 U.S. Dist. LEXIS 44143,
8 at 6, n.1 (S.D. Fla. 2011). Plaintiff's Opposition to the COUNTY'S Motion was filed on June
9 29, 2013 (#33). On July 17, 2013, Plaintiff received Defendant FOX's Fed.R.Civ.Proc. 26
10 disclosure. (See the first page of Plaintiff's proposed Exhibit 8, attached to the proposed
11 Surreply). Not previously available to Plaintiff, that disclosure contained documents from
12 FOX's personnel file and the investigation of the subject incident which refute and demonstrate
13 the lack of merit in the COUNTY'S new and original arguments.
14

15 CONCLUSION

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17 For the reasons expressed above, it is respectfully requested that the Court issue an
18 Order granting leave for the filing of the attached proposed Surreply and its attached exhibit.

19 DATED this 22nd day of Aug., 2013.

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21 GOODMAN LAW GROUP

22 By: Ross C. Goodman, Esq.
23 Attorney for Plaintiff
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